

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6156

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JEFFREY LYNN MORGAN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. Terrence W. Boyle, Chief District Judge. (CR-01-1, CA-02-44-BO)

Submitted: June 17, 2003

Decided: July 9, 2003

Before WILKINSON, MICHAEL, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jeffrey Lynn Morgan, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, Kenneth Fitzgerald Whitted, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jeffrey Lynn Morgan seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, ___, 123 S. Ct. 1029, 1040 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir.), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that, although the district court's conclusion that Morgan's § 2255 motion was barred by the appeal waiver contained in his plea agreement was erroneous, Morgan has failed to demonstrate that it is debatable whether he has stated valid claims of the denial of a constitutional right. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED